S A N A T A N

Pratnakirttimapavrinu
(Let us attempt to unravel the glorious past – *Rigveda*)

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Gwalior : Lion Capital in Gujari-mahal Museum (source: Alok Tripathi, 2010)

South **A**sian **N**etwork of **A**rcheologists/academicians for **T**echnical and **A**rtistic **N**urturing

"Nothing will ever be attempted if all possible objections must first be overcome."
- Samuel Johnson

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EDITORIAL

Dear Colleagues

In each issue of Sanatan members must be finding some changes - the indication of constant growth. This issue is devoted to the Ancient Monuments and Archaeological Sites and Remains Act, 1958, the law which governs archaeological activities - excavations and protection of ancient monuments and archaeological sites and remains of national importance. It is this law which provides powers to the state and to the archaeological officers by which they can regulate various activities directed to these monuments and archaeological sites and remains. But, unfortunately, the adequate attention was not paid to this law - neither by the public nor by the officers or the organizations who operated them. As a result many activities continued unregulated, since it came in force, in 1959.

It is not difficult to find out and one can easily understand the reasons for this negligence, which was somehow institutionalised. No desired attention was paid for the implementation of the provisions and finally the Court of Justice had to set the things right.

It then became necessary to bring amendment for protecting the actions which were taken on the pretax of this law. Hurriedly prepared Amendment Bill was passed by the parliament and became law. As most of the scholars are not aware of these provisions, for the benefit of them it is decided to publish the Act in Sanatan so that it not only reaches to a large number of scholars concerned with heritage and culture but also to get their valuable comments on this vital issue. The amended law will have far reaching effects and there is a dire need to examine effects of these various provisions carefully. Reader's view will help concerned officials in planning and management of heritage.

- Editor

Laws for Antiquity in India: Brief History

India is rich in cultural heritage, which did not face much threat from public, in olden days. Much of it survived with public or individual efforts. In the eighteenth century it was urged that the preservation of cultural heritage of any nation should be the duty of the State. In India, it was Dr Samuel Johnson who felt the need for systematic efforts for studying and preserving cultural heritage by the State. Concern of the Government to the antiquarian research can be traced back to the beginning of the nineteenth century. However, the concern of the State was limited to the protection of historical monuments mainly known for their architectural and artistic value.

Certain provisions in the Bengal Regulations, XIX of 1810 was the earliest attempt to protect cultural heritage by law. It was followed by the Madras Regulations, VII of 1817, where section (iii) and (iv) of Bengal Regulations were repeated. Enactment of these regulations empowered the Government to intervene wherever a public building was faced with the risks of misuse.

In 1861, the Archaeological Survey of India was established and two years later Act XX of 1863 was passed. This Act invested the Government with the authority "to prevent injury to and preserve buildings remarkable for their antiquity or for their historical or architectural value".

Lord Lytton passed the Indian Treasure Trove Act, 1878, which helped in combating treasure hunting and also regulated the lawful disposal of treasures found in accidental digging. The Act proved effective and is still in force after more than a century. Though a Central Act, it is listed in the List II of the Seventh Schedule of the Constitution and thus is operated by the States.

At the instance of James Burgess the Government issued two directives to protect cultural heritage. One of the directives forbids any person or agency to

undertake excavation without prior consent of the Archaeological Survey. The other one debarred officers from disposing of antiquities found or acquired without the permission of the Government. He also wanted to stop the export of antiquity without an official permit. His endeavour to amend the Indian Treasure Trove Act however did not succeed.

By the end of the nineteenth century need for additional legislative measure was felt. In 1904, the Ancient Monuments Preservation Act came into force to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places and for the protection and acquisition in certain cases of ancient monuments and of objects of archaeological, historical or artistic interest. Specific provisions of the Act were amended in 1932. This Act worked effectively for about half a century till the enactment of the Ancient Monuments and Archaeological Sites and Remains Act, 1958. The Act is still deemed to be in force as it is not repealed.

In the Devolution Rules of 1921 archaeology was classified as a central subject. Through the Government of India Act, 1935, all the monuments declared protected in accordance with the Ancient Monuments Preservation Act, 1904 were brought under the control of the Centre. This Act made “archaeology" a Federal subject and the Central Government took over all powers relating to ancient and historical monuments, including archaeological sites and remains, from the provinces. On 18 April 1947, the Indian Legislature passed the Antiquities (Export Control) Act, 1947.

Since Independence

On 15th August 1947, India became Independent and the Constitution of India was promulgated from 26 January 1950. Article 49 of the Constitution of the Republic of India mentions “*It shall be the obligation of the state to protect every monument or object of artistic or historic interest declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export as the case may be*”.

The Constitution also allocated functions between the Centre and States. The Seventh Schedule of the Constitution consist the lists the subjects concerning the Center, state and concurrent. Matters pertaining to cultural heritage were listed in all the three lists, Union list, State list and Concurrent list. The ancient and historical monuments and records, and archaeological sites and remains declared by or under law by Parliament to be of national importance are allotted to the Union (List I, item 67) whereas ancient and historical monuments and records other than those declared by or under law made by Parliament to be of national importance are allotted to the States (List II, item 12). Archaeological sites and remains other than those declared by or under law made by Parliament to be of national importance are kept in concurrent list (List III, item 40).

The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951 (No. LXXI of 1951) was enacted on 28 November 1951, in order to fulfill the provisions of the Constitution. More monuments and archaeological sites were declared as to be of national importance by section 26 of the States Reorganization Act, 1956.

In 1958, the Parliament enacted the Ancient Monuments and Archaeological Sites and Remains Act, 1958. The Act along with the Ancient Monuments and Archaeological Sites and Remains Rules, 1959 came into force from 15 October 1959.

As a logical corollery to the provisions in the Constitution of India, various States also established their own Department of Archaeology. Most of the States have also enacted the legislation on the line of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, for the protection of ancient monuments and archaeological sites and remains, which are declared as to be of State importance.

In 1965, an unsuccessful attempt was made to introduce the Antiquities (Export Control) Amendment Bill, 1965 (Bill no. 24 of 1965) had proposing to dilute the authority of the Director-General.

The Antiquities and Art Treasures Act, 1972 (No.52 of 1972) was passed on 9 September 1972, which repealed the Antiquities (Export Control) Act, 1947. The Act along with its Rules came in force from 5 April.1976. It deals with a new category i.e. "art treasures", which are not antiquities within the meaning of the same legislation. An Ordinance amending certain provisions of the AAT Act was promulgated on 4 June 1976. The Antiquities and Art Treasures (Amendment) Ordinance, 1976 (4 of 1976) was made into an Act without effecting any change in the provisions of the Ordinance or incorporating any new clause.

At the moment for the preservation of monuments, archaeological remains and antiquities there are two Central legislations.

- The Ancient Monuments and Archaeological Sites and Remains Act, 1958, and
- The Antiquities and Art Treasures Act, 1972.
- However, the Ancient Monuments Preservation Act, 1904 is also deemed to be in force as it has not been repealed.

The President of India distributes subjects among the departments. Under rule 3 of the Allocation of Business Rules, Department of Culture (*Sanskriti vibhag*) is given the responsibility of implementation and enforcement of all the three above mentioned Acts. The organization responsible for the implementation of the laws of antiquity is the Archaeological Survey of India, an attached office under the Department of Culture.

The Ancient Monuments and Archaeological Sites and Remains Act, 1958, enacted by the Parliament, received the assent of the President on the 28th August 1958 and came in force from 15th October 1959. It is the principal Act, which provide for the preservation of ancient and historical monuments and archaeological sites and remains of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects. The Act has been amended by the AAT Act, 1972 and recently by the The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010.

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The Ancient Monuments and Archaeological Sites and Remains Act, 1958
(Act No. 24 of 1958)

[With amendments made in [1972] and [March 2010]. For official text please see concerned notifications in the Official Gazette.]

[28*th August*, 1958]

An Act to provide for the preservation of ancient and historical monuments and archaeological sites and remains of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:

PRELIMINARY

1. Short-title, extent and commencement.

(1) This Act may be called the Ancient Monuments and Archaeological Sites and Remains Act, 1958.

[*(2)* It extends to the whole of India.]

(3) It shall come into force on such date[2] as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.

In this Act, unless the context otherwise requires,-

(a) “ancient monument" means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock sculpture, inscription or monolith, which is of historical, archaeological or artistic interest and which has been in existence for not less than one hundred years, and includes-

(i) the remains of an ancient monument,
(ii) the site of an ancient monument,
(iii) such portion of land adjoining the site of an ancient monument as may required for fencing or covering in or otherwise preserving such monument, and
(iv) the means of access to, and convenient inspection of, an ancient monument;

(b) “antiquity" includes-
(i) any coin, sculpture, manuscript, epigraph, or other work of art or craftsmanship,

(ii) any article, object or thing detached from a building or cave,

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages,

(*iv*) any article, object or thing of historical interest, and

(v) any article, object or thing declared by the Central Government by notification in the Official Gazette, to be an antiquity for the purpose of this Act,

which has been in existence for not less than one hundred years;

(c) "archaeological officer" means an officer of the Department of Archaeology of the Government of India not lower in rank than Assistant Superintendent of Archaeology;

(d) "archaeological site and remains" means any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance which have been in existence for not less than one hundred years, and includes-

(i) such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and

(ii) the means of access to, and convenient inspection of, the area;

[*(da)* "Authority" means the National Monuments Authority constituted under section 20F;]

[*(db)* "competent authority" means an officer not below the rank of Director of archaeology or Commissioner of archaeology of the Central or State Government or equivalent rank, specified, by notification in the Official Gazette, as the competent authority by the Central Government to perform functions under this Act:

Provided that the Central Government may, by notification in the Official Gazette, specify different competent authorities for the purpose of sections 20C, 20D and 20E;]

[*(dc)* "construction" means any erection of a structure or a building, including any addition or extension thereto either vertically or horizontally, but does not include any re-construction, repair and renovation of an existing structure or building, or, construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences, or, the construction and maintenance of works meant for providing supply of water for public, or, the construction or maintenance, extension, management for supply and distribution of electricity to the public or provision for similar facilities for public;]

(e) "Director-General" means the Director-General of Archaeology, and includes any officer authorised by the Central Government to perform the duties of the Director-General;

(f) "maintain", with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of preserving a protected monument or of securing convenient access thereto;

(g) "owner" includes-

(i) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-title of any such owner; and

(*ii*) any manager or trustee exercising powers of management and the successor-in-office of any such manager or trustee;

(h) "prescribed" means prescribed by rules made under this Act;

[*(ha)* "prohibited area" means any area specified or declared to be a prohibited area under section 20A;';]

(i) "protected area" means any archaeological site and remains which is declared to be of national importance by or under this Act;

(j) "protected monument" means an ancient monument which is declared to be of national importance by or under this Act.

[*(k)* "re-construction" means any erection of a structure or building to its pre-existing structure, having the same horizontal and vertical limits;]

[*(l)* "regulated area" means any area specified or declared under section 20B;]

[*(m)* "repair and renovation" means alterations to a pre-existing structure or building, but shall not include construction or re-construction;'.]

[2A. Construction of references to any law not in force in the State of Jammu and Kashmir.

Any reference in this Act to any law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.]

ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS OF NATIONAL IMPORTANCE

3. Certain ancient monuments, etc., deemed to be of national importance.

All ancient and historical monuments and all archaeological sites and remains which have been declared by the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951, or by section 126 of the States Reorganisation Act, 1956 to be of national importance shall be deemed to be ancient and historical monuments or archaeological sites and remains declared to be of national importance for the purposes of this Act.

4. Power of Central Government to declare ancient monuments, etc. to be of national importance.

(1) Where the Central Government is of opinion that any ancient monument or archaeological site and remains not included in section 3 is of national importance, it may, by notification in the Official Gazette, give two months' notice of its intention to declare such ancient monument or archaeological site and remains to be of national importance; and a copy of every such notification shall be affixed in a conspicuous place near the monument or site and remains, as the case may be.

(2) Any person interested in any such ancient monument or archaeological site and remains may, within two months after the issue of the notification, object to the declaration of the monument, or the archaeological site and remains, to be of national importance.

(3) On the expiry of the said period of two months, the Central Government may, after considering the objections, if any, received by it, declare by notification in the Official Gazette, the ancient monument or the archaeological site and remains, as the case may be, to be of national importance.

(4) A notification published under sub-section *(3)* shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient monument or the archaeological site and remains to which it relates is of national importance for the purposes of this Act.

[*4A.* (*1*) The Central Government shall, on the recommendation of the Authority, prescribe categories in respect of ancient monuments or archaeological sites and remains declared as of national importance under sections 3 and 4,

and while prescribing such categories it shall have regard to the historical, archaeological and architectural value and such other factors as may be relevant for the purpose of such categorisation.

(*2*) The Central Government shall, on the recommendation of the Authority, classify all the ancient monuments or archaeological sites and remains declared as of national importance under sections 3 and 4, in accordance with the categories prescribed under sub-section (*1*) and thereafter make the same available to the public and exhibit the same on its website and also in such other manner as it may deem fit.".]

PROTECTED MONUMENTS

5. Acquisition of rights in a protected monument.

(1) The Director-General may, with the sanction of the Central Government, purchase, or take a lease of, or accept a gift or bequest of, any protected monument.

(2) Where a protected monument is without an owner, the Director-General may, by notification in the Official Gazette, assume the guardianship of the monument.

(3) The owner of any protected monument may, by written instrument, constitute the Director-General the guardian of the monument, and the Director-General may, with the sanction of the Central Government, accept such guardianship.

(4) When the Director-General has accepted the guardianship of a monument under sub-section *(3)*, the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director-General had not been constituted a guardian thereof.

(5) When the Director-General has accepted the guardianship of a monument under sub-section *(3)*, the provisions of this Act relating to agreements executed under Section 6 shall apply to the written instrument executed under the said sub-section.

(6) Nothing in this section shall affect the use of any protected monument for customary religious observances.

6. Preservation of protected monument by agreement.

(1) The Collector, when so directed by the Central Government, shall propose to

the owner of a protected monument to enter into an agreement with the Central Government within a specified period for the maintenance of the monument.

(2) An agreement under this section may provide for all or any of the following matters, namely:-

(a) the maintenance of the monument;

(b) the custody of the monument and the duties of any person who may be employed to watch it;

(c) the restriction of the owner's right-
(i) to use the monument for any purpose,
(ii) to charge any fee for entry into, or inspection of, the monument,
(iii) to destroy, remove, alter or deface the monument, or
(iv) to build on or near the site of the monument;

(d) the facilities of access to be permitted to the public or any section thereof or to archaeological officers or to persons deputed by the owner or any archaeological officer or the Collector to inspect or maintain the monument;

(e) the notice to be given to the Central Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the Central Government to purchase such land, or any specified portion of such land, at its market value;

(f) the payment of any expenses incurred by the owner or by the Central Government in connection with the maintenance of the monument;

(g) the proprietary or other rights which are to vest in the Central Government in respect of the monument when any expenses are incurred by the Central Government in connection with the maintenance of the monument;

(h) the appointment of an authority to decide any dispute arising out of agreement; and

(i) any matter connected with the maintenance of the monument which is a proper subject of agreement between the owner and the Central Government.

(3) The Central Government or the owner may, at any time after the expiration of three years from the date of execution of an agreement under this section, terminate it on giving six months' notice in writing to the other party :

Provided that where the agreement is terminated by the owner, he shall pay to the Central Government the expenses, if any, incurred by it on the maintenance of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force.

(4) An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates, from, through or under a party by whom or on whose behalf the agreement was executed.

7. Owners under disability or not in possession.

(1) If the owner of a protected monument is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 6.

(2) In the case of village property, the headman or other village-officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 6.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

8. Application of endowment to repair a protected monument.

(1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair or for that purpose among others, the Central Government may institute a suit in the court of the district judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, any make an application to the district judge, for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section *(1)*, the district judge may summon and examine the owner and any person whose evidence appears to him necessary and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of a civil court.

9. Failure or refusal to enter into an agreement.

(*1*) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, the Central Government may make an order providing for all or any of the matters specified in sub-section (*2*) of section 6 and such order shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under, the owner or such other person.

(*2*) Where an order made under sub-section (*1*) provides that the monument shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance of the monument shall be payable by the Central Government.

(*3*) No order under sub-section (*1*) shall be made unless the owner or other person has been given an opportunity of making a representation in writing against the proposed order.

10. Power to make order prohibiting contravention of agreement under Section 6.

(*1*) If the Director-General apprehends that the owner or occupier of a protected monument intends to destroy, remove, alter, deface, imperil or misuse the monument or to build on or near the site thereof in contravention of the terms of an agreement under section 6, the Director-General may, after giving the owner or occupier an opportunity of making a representation in writing make an order prohibiting any such contravention of the agreement:

Provided that no such opportunity may be given in any case where the Director General, for reasons to be recorded, is satisfied that it is not expedient or practicable to do so.

(*2*) Any person aggrieved by an order under this section may appeal to the Central Government within such time and in such manner as may be prescribed and the decision of the Central Government shall be final.

13. Acquisition of protected monuments.

If the Central Government apprehends that a protected monument is in danger of being destroyed, injured, misused, or allowed to fall into decay, it may acquire the protected monument under the provisions of the Land Acquisition Act, 1894 as if the maintenance of the protected monument were a public

purpose within the meaning of that Act.

14. Maintenance of certain protected monuments.

(*1*) The Central Government shall maintain every monument which has been acquired under section 13 or in respect of which any of the rights mentioned in section 5 have been acquired.

(*2*) When the Director-General has assumed the guardianship of a monument under section 5, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

15. Voluntary contributions.

The Director-General may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

16. Protection of place of worship from misuse, pollution or desecration.

(*1*) A protected monument maintained by the Central Government under this Act which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.

(*2*) Where the Central Government has acquired a protected monument under section 13, or where the Director-General has purchased, or taken a lease or accepted a gift or bequest or assumed guardianship of a protected monument under section 5, and such monument or any part thereof is used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument or part thereof, from pollution or desecration -

(a) by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or

(b) by taking such other action as he may think necessary in this behalf.

17. Relinquishment of Government rights in a monument.

With the sanction of the Central Government, the Director-General may,-

(a) where rights have been acquired by the Director-General in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish, by notification in the Official Gazette, the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired; or

(b) relinquish any guardianship of a monument which he has assumed under this Act.

18. Right of access to protected monuments.

Subject to any rules made under this Act, the public shall have a right of access to any protected monument.

PROTECTED AREAS

19. Restriction on enjoyment of property right in protected areas.

(*1*) No person, including the owner or occupier of a protected area, shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of a like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the Central Government:

Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface.

(*2*) The Central Government may, by order, direct that any building constructed by any person within a protected area in contravention of the provisions of sub-section (*1*) shall be removed within a specified period and, if the person refuses or fails to comply with the order, the Collector may cause the building to be removed and the person shall be liable to pay the cost of such removal.

20. Power to acquire a protected area.

If the Central Government is of opinion that any protected area contains an ancient monument or antiquities of national interest and value, if may acquire such area under the provisions of the Land Acquisition Act, 1894, as if the acquisition were for a public purpose within the meaning of that Act.

PROHIBITED AND REGULATED AREAS

[20A. Declaration of prohibited area and carrying out public work or other works in prohibited area.

Every area, beginning at the limit of the protected area or the protected monument, as the case may be, and extending to a distance of one hundred metres in all directions shall be the prohibited area in respect of such protected area or protected monument:

Provided that the Central Government may, on the recommendation of the Authority, by notification in the Official Gazette, specify an area more than one hundred metres to be the prohibited area having regard to the classification of any protected monument or protected area, as the case may be, under section 4A.

(*2*) Save as otherwise provided in section 20C, no person, other than an archaeological officer, shall carry out any construction in any prohibited area.

(*3*) In a case where the Central Government or the Director-General, as the case may be, is satisfied that—

(*a*) it is necessary or expedient for carrying out such public work or any project essential to the public; or

(*b*) such other work or project, in its opinion, shall not have any substantial adverse impact on the preservation, safety, security of, or, access to, the monument or its immediate surrounding,

it or he may, notwithstanding anything contained in sub-section (*2*), in exceptional cases and having regard to the public interest, by order and for reasons to be recorded in writing, permit, such public work or project essential to the public or other constructions, to be carried out in a prohibited area:

Provided that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a prohibited area in respect of such protected monument, shall be deemed to be the prohibited area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted by the Central Government or the Director-General, as the case may be, for the construction within the prohibited area on the basis of the recommendation of the Expert Advisory Committee, shall be deemed to have been validly granted in accordance with

the provisions of this Act, as if this section had been in force at all material times:

Provided further that nothing contained in the first proviso shall apply to any permission granted, subsequent to the completion of construction or re-construction of any building or structure in any prohibited area in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O. 1764, dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, or, without having obtained the recommendations of the Committee constituted in pursuance of the order of the Government of India number 24/22/2006-M, dated the 20th July, 2006 (subsequently referred to as the Expert Advisory Committee in orders dated the 27th August, 2008 and the 5th May, 2009).".]

[(*4*) No permission, referred to in sub-section (*3*), including carrying out any public work or project essential to the public or other constructions, shall be granted in any prohibited area on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010 receives the assent of the President.".]

[**20B. Declaration of regulated area in respect of every protected monument.**

Every area, beginning at the limit of prohibited area in respect of every ancient monument and archaeological site and remains, declared as of national importance under sections 3 and 4 and extending to a distance of two hundred metres in all directions shall be the regulated area in respect of every ancient monument and archaeological site and remains:

Provided that the Central Government may, by notification in the Official Gazette, specify an area more than two hundred metres to be the regulated area having regard to the classification of any protected monument or protected area, as the case may be, under section 4A:

Provided further that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a regulated area in respect of such protected monument, shall be deemed to be the regulated area declared in respect of that protected monument in accordance with the provisions of this

Act and any permission or licence granted for construction in such regulated area shall, be deemed to have been validly granted in accordance with the provisions of this Act, as if this section had been in force at all material times.”.]

[**20C**. **Application for repair or renovation in prohibited area, or construction or re-construction or repair or renovation in regulated area.**

(*1*) Any person, who owns any building or structure, which existed in a prohibited area before the 16th day of June, 1992, or, which had been subsequently constructed with the approval of the Director-General and desires to carry out any repair or renovation of such building or structure, may make an application to the competent authority for carrying out such repair or renovation, as the case may be.

(*2*) Any person, who owns or possesses any building or structure or land in any regulated area, and desires to carry out any construction or re-construction or repair or renovation of such building or structure on such land, as the case may be, may make an application to the competent authority for carrying out construction or re-construction or repair or renovation, as the case may be.]

GRANT OF PERMISSION BY COMPETENT AUTHORITY

[**20D**. **Grant of permission by competent authority within regulated area.**

(*1*) Every application for grant of permission under section 20C of this Act shall be made to the competent authority in such manner as may be prescribed.

(*2*) The competent authority shall, within fifteen days of the receipt of the application, forward the same to the Authority to consider and intimate impact of such construction (including the impact of large-scale development project, public project and project essential to the public) having regard to the heritage bye-laws relating to the concerned protected monument or protected area, as the case may be:

Provided that the Central Government may prescribe the category of applications in respect of which the permission may be granted under this sub-section and the application which shall be referred to the Authority for its recommendations.

(*3*) The Authority shall, within two months from the date of receipt of application under sub-section (*2*), intimate to the competent authority impact of such construction (including the impact of large-scale development project, public project and project essential to the public).

(*4*) The competent authority shall, within one month of the receipt of intimation from the Authority under sub-section (*3*), either grant permission or refuse the same as so recommended by the Authority.

(*5*) The recommendations of the Authority shall be final.

(*6*) In case the competent authority refuses to grant permission under this section, it shall, by order in writing, after giving an opportunity to the concerned person, intimate such refusal within three months from the date of receipt of the application to the applicant, the Central Government and the Authority.

(*7*) If the competent authority, after grant of the permission under sub-section (*4*) and during the carrying out of the repair or renovation work or re-construction of building or construction referred to in that sub-section, is of the opinion (on the basis of material in his possession or otherwise) that such repair or renovation work or reconstruction of building or construction is likely to have an adverse impact on the preservation, safety, security or access to the monument considerably, it may refer the same to the Authority for its recommendations and if so recommended, withdraw the permission granted under sub-section (*4*) if so required:

Provided that the competent authority may, in exceptional cases, with the approval of the Authority grant permission to the applicant referred to in sub-section (*2*) of section 20C until the heritage bye-laws have been prepared under sub-section (*1*) of section 20E and published under sub-section (*7*) of that section.]

(*8*) The Central Government, or the Director-General, as the case may be, shall exhibit, on their website, all the permissions granted or refused under this Act.

[20E. Heritage bye-laws.

(*1*) The competent authority, in consultation with Indian National Trust for Arts and Cultural Heritage, being a trust registered under the Indian Trusts Act, 1882, or such other expert heritage bodies as may be notified by the Central Government, shall prepare heritage bye-laws in respect of each protected monument and protected area.

(*2*) The heritage bye-laws referred to in sub-section (*1*) shall, in addition to such matters as may be prescribed, include matters relating to heritage controls such as elevations, facades, drainage systems, roads and service infrastructure (including electric poles, water and sewer pipelines).

(*3*) The Central Government shall, by rules, specify the manner of preparation of detailed site plans in respect of each protected area or protected monument

or prohibited area or regulated area, the time within which such heritage bye-laws shall be prepared and particulars to be included in each such heritage bye-laws.

(*4*) The competent authority for the purpose of preparation of detailed site plans and heritage bye-laws may appoint such number of experts or consultants as it may deem fit.

(*5*) A copy of each of the heritage bye-laws prepared under sub-section (*1*) shall be forwarded to the Authority for its approval.

(*6*) A copy of the heritage bye-laws, as approved by the Authority under subsection (*5*) shall be laid before each House of Parliament.

(*7*) Each heritage bye-laws shall, be made available by the competent authority to the public, by exhibiting the same on its website and also in such other manner as it may deem fit, immediately after laying the same before each House of Parliament.]

NATIONAL MONUMENTS AUTHORITY

[20F. Constitution of National Monuments Authority.

(*1*) The Central Government shall, by notification in the Official Gazette, constitute an Authority to be called as the National Monuments Authority.

(*2*) The Authority shall consist of,—

(*a*) a Chairperson, on whole-time basis, to be appointed by the President, having proven experience and expertise in the fields of archaeology, country and town planning, architecture, heritage, conservation-architecture or law;

(*b*) such number of members not exceeding five whole-time members and five part-time members to be appointed, on the recommendation of the Selection Committee referred to in section 20G, by the Central Government, having proven experience and expertise in the fields of archaeology, country and town planning, architecture, heritage, conservation-architecture or law.

(*c*) the Director-General as member, *ex officio.*

(*3*) The tenure of the whole-time Chairperson or every whole-time member and every part-time member, of the Authority shall be three years from the date on which he assumes office as such and shall not be eligible for re-appointment:

Provided that, save as otherwise provided in clause (*c*) of sub-section (*2*), any person who has held any post in the Archaeological Survey of India or in the

Ministry of Culture of the Government of India or a State Government or has not been found fit to be considered for being appointed to any such post shall, not be eligible to be appointed as the Chairperson or a member of the Authority:

Provided further that any person, who had either been granted a permission or licence or refused any such permission or refused grant of a licence or any person or any of his relative having any interest in a prohibited area or a regulated area shall not be eligible to be appointed as a Chairperson or member.

Explanation.—For the purposes of this section, "relative" means—
(*i*) spouse of the Chairperson or member of the Authority;
(*ii*) brother or sister of the Chairperson or member of the Authority;
(*iii*) brother or sister of the spouse of the Chairperson or member of the Authority;
(*iv*) brother or sister of either of the parents of the Chairperson or member of the Authority;
(*v*) any lineal ascendant or descendant of the Chairperson or member of the Authority;
(*vi*) any lineal ascendant or descendant of the spouse of the Chairperson or member of the Authority;
(*vii*) spouse of the person referred to in clauses (*ii*) to (*vi*);

(*4*) An officer, not below the rank of Joint Secretary to the Government of India, shall be the Member Secretary of the Authority.

(*5*) The Central Government shall provide such number of officers and other employees as may be necessary for discharge of functions by the Authority under this Act.]

[**20G. Selection Committee for selection of members of Authority.**

(*1*) Every whole-time member and every part-time member of the Authority shall be selected by a Selection Committee consisting of the following persons, namely:—

(*a*) Cabinet Secretary — Chairperson, *ex officio*;
(*b*) Secretary in the Ministry of Culture —member, *ex officio*;
(*c*) Secretary in the Ministry of Urban development— member, *ex officio.*
(*d*) three experts, having proven experience and expertise in the fields of archaeology, architecture, heritage or conservation-architecture to be nominated by the Central Government.

(*2*) The Selection Committee referred to in sub-section (*1*) shall regulate its own procedure for the purposes of selecting whole-time members and part-time members of the Authority.]

[**20H. Salary, allowances and meetings of Authority.**

(*1*) The salaries and allowances payable to the whole-time Chairperson and whole-time members, and the other terms and conditions of their service or fees or allowances payable to the part-time members, of the Authority shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the whole-time Chairperson and whole-time members shall be varied to their disadvantage after their appointment.

(*2*) The Authority shall regulate its own procedure for the purposes of holding its meetings (including quorum of such meetings) and granting permissions under this Act.

(*3*) All the decisions of the Authority shall be published in such manner as it may decide and also on its own website and on the website of the Central Government.]

[**20-I. Functions and powers of Authority.**

(*1*) The Authority shall exercise or discharge the following powers or functions, namely:—

(*a*) make recommendations to the Central Government for grading and classifying protected monuments and protected areas declared as of national importance under sections 3 and 4, before the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010;

(*b*) make recommendations to the Central Government for grading and classifying protected monuments and protected areas which may be declared after the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010, as of national importance under section 4;

(*c*) oversee the working of the competent authorities;

(*d*) to suggest measures for implementation of the provisions of the Act;

(*e*) to consider the impact of large-scale developmental projects, including public projects and projects essential to the public which may be proposed

in the regulated areas and make recommendations in respect thereof to the competent authority;

(*f*) to make recommendations to the competent authority for grant of permission.

(*2*) The Authority shall, for the purpose of discharging functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) any other matter which may be prescribed.]

[**20J. Removal of Chairperson and members.**

(*1*) Notwithstanding anything contained in sub-section (*3*) of section 20F, the President in the case of the Chairperson and the Central Government in the case of whole-time member and part-time member may, by order, remove from office, the Chairperson or any such member of the Authority, if he —

(*a*) has been adjudged an insolvent; or

(*b*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*c*) has become physically or mentally incapable of acting as Chairperson or member; or

(*d*) has acquired such financial or other interests as is likely to affect prejudicially his functions; or

(*e*) has so abused his position as to render his continuance in office prejudicial to the public interest.

(*2*) The Chairperson or any member of the Authority shall not be removed under clauses (*d*) and (*e*) of sub-section (*1*) unless he has been given a reasonable opportunity of being heard in the matter.]

[**20K. Restriction on future employment by Chairperson and members.**

On ceasing to hold office, the Chairperson or whole-time member of the Authority, as the case may be, shall, subject to the provisions of this Act, be ineligible, for a period of five years from the date on which they cease to hold office, for further employment (including as consultant or expert or otherwise) in any institution, agency or organisation of any nature mainly dealing with archaeology, country and town planning, architecture, heritage and conservation-architecture or whose matters had been before the Chairperson or such member.]

[20L. Power of Central Government to issue directions to Authority.

(*1*) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the discharge of its functions under this Act, be bound by such directions on question of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government, whether a question is one of policy or not, shall be final.][021]

[20M. Power of Central Government to issue directions to competent authority.

Without prejudice to the foregoing provisions of this Act, the competent authority shall, in exercise of its powers or the discharge of its functions under this Act, be bound by such directions, as the Central Government may give in writing to it from time to time.][022]

[20N. Power of Central Government to supersede Authority.

(*1*) If, at any time the Central Government is of the opinion,—

(*a*) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(*b*) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(*c*) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the Authority,—

(*a*) the Chairperson and all other whole-time members and part-time members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (*3*), be exercised and discharged by the person or persons referred to in sub-section (*1*); and

(*c*) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (*3*), vest in the Central Government.

(*3*) On or before the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other whole-time members and part-time members and in such case any person who had vacated his office under clause (*a*) of sub-section (*2*) shall not be deemed to be disqualified, subject to the provisions of sub-section (*3*) of section 20F for reappointment for the remaining period.

(*4*) The Central Government shall cause a copy of the notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.]

[**20-O. Bar of jurisdiction of civil court.**

No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

[**20P. Annual report.**

(*1*) The Authority shall prepare once in every year, in such form and at such time as may be prescribed by the Central Government, an annual report giving full description of all the activities of the Authority for the previous year.

(*2*) A copy of the report received under sub-section (*1*) shall be laid, as soon as may be after it is received, before each House of Parliament.]

[20Q. Power to call for information.

Where the Central Government considers it expedient so to do, it may, by order in writing call upon the Authority or the competent authority, as the case may be, to furnish in writing such information, in such form and manner as may be prescribed, relating to its affairs as the Central Government may require.".]

ARCHAEOLOGICAL EXCAVATIONS

21. Excavations in protected areas.

An archaeological officer or an officer authorised by him in this behalf or any person holding a licence granted in this behalf under this Act (hereinafter referred to as the licensee) may, after giving notice in writing to the Collector and the owner, enter upon and make excavations in any protected area.

22. Excavations in areas other than protected areas.

Where an archaeological officer has reason to believe that any area not being a protected area contains ruins or relics of historical or archaeological importance, he or an officer authorised by him in this behalf may, after giving notice in writing to the Collector and the owner, enter upon and make excavations in the area.

23. Compulsory purchase of antiquities, etc., discovered during excavation operations.

(*1*) Where, as a result of any excavations made in any area under section 21 or section 22, any antiquities are discovered, the archaeological officer or the licensee, as the case may be, shall,-

(a) as soon as practicable, examine such antiquities and submit a report to the Central Government in such manner and containing such particulars as may be prescribed;

(b) at the conclusion of the excavation operations, give notice in writing to the owner of the land from which such antiquities have been discovered, of the nature of such antiquities.

(*2*) Until an order for the [compulsory acquisition] of any such antiquities is made under sub-section (*3*), the archaeological officer or the licensee, as the case may be, shall keep them in such safe custody as he may deem fit.

(*3*) On receipt of a report under sub-section (*1*), the Central Government may make an order for the [compulsory acquisition of any such antiquities].

(*4*) When an order for the [compulsory acquisition] of any antiquities is made under sub-section (*3*), such antiquities shall vest in the Central Government with effect from the date of the order.

24. Excavations, etc., for archaeological purposes.

No State Government shall undertake or authorise any person to undertake any excavation or other like operation for archaeological purposes in any area which is not a protected area except with the previous approval of the Central Government and in accordance with such rules or directions, if any, as the Central Government may make or give in this behalf.

PROTECTION OF ANTIQUITIES

25. Power of Central Government to control moving of antiquities.

(*1*) If the Central Government considers that any antiquities or class of antiquities ought not to be moved from the place where they are without the sanction of the Central Government, the Central Government may, by notification in the Official Gazette, direct that any such antiquity or any class of such antiquities shall not be moved except with the written permission of the Director-General.

(*2*) Every application for permission under sub-section (*1*) shall be in such form and contain such particulars as may be prescribed.

(*3*) Any person aggrieved by an order refusing permission may appeal to the Central Government whose decision shall be final.

26. Purchase of antiquities by Central Government.

(*1*) If the Central Government apprehends that any antiquity mentioned in a notification issued under sub-section (*1*) of section 25 is in danger of being destroyed, removed, injured, misused or allowed to fall into decay or is of opinion that, by reason of its historical or archaeological importance, it is desirable to preserve such antiquity in a public place, the Central Government may make an order for the [compulsory acquisition of such antiquity] and the Collector shall thereupon give notice to the owner of the antiquity [to be acquired].

(*2*) Where a notice of [compulsory acquisition] is issued under sub-section (*1*) in respect of any antiquity, such antiquity shall vest in the Central Government with effect from the date of the notice.

(*3*) The power of [compulsory acquisition] given by this section shall not extend

to any image or symbol actually used for *bona fide* religious observances.

PRINCIPLES OF COMPENSATION

27. Compensation for loss or damage.

Any owner or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act shall be paid compensation by the Central Government for such loss, damage or diminution of profits.

28. Assessment of market value or compensation.

(*1*) The market value of any property which the Central Government is empowered to purchase at such value under this Act or the compensation to be paid by the Central Government in respect of anything done under this Act shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in sections 3, 5, 8 to 34, 45 to 47, 51 and 52 of the Land Acquisition Act, 1894, so far as they can be made applicable:

Provided that, when making an enquiry under the said Land Acquisition Act, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the Central Government and one a person nominated by the owner, or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

[(*2*) For every antiquity in respect of which an order for compulsory acquisition has been made under sub-section (*3*) of section 23 or under sub-section (*1*) of section 26, there shall be paid compensation and the provisions of sections 20 and 22 of the Antiquities and Art Treasures Act, 1972 shall, so far as may be, apply in relation to the determination and payment of such compensation as they apply in relation to the determination and payment of compensation for any antiquity or art treasure compulsorily acquired under section 19 of that Act.]

MISCELLANEOUS

29. Delegation of powers.

The Central Government may, by notification in the Official Gazette, direct that any powers conferred on it by or under this Act shall, subject to such conditions as may be specified in the direction, be exercisable also by-

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to the State Government,

as may be specified in the direction.

30. Penalties.

(*1*) Whoever-

(i) destroys, removes, injures, alters, defaces, imperils or misuses a protected monument, or

(ii) being the owner or occupier of a protected monument, contravenes an order made under sub-section (*1*) of section 9 or under sub-section (*1*) of section 10, or

(iii) removes from a protected monument any sculpture, carving, image, bas-relief, inscription, or other like object, or

(iv) does any act in contravention of sub-section (*1*) of section 19, shall be punishable with [imprisonment which may extend to two years], or with [fine which may extend to one lakh rupees], or with both.

(*2*) Any person who moves any antiquity in contravention of a notification issued under sub-section (*1*) of section 25 shall be punishable with [imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both]; and the court convicting a person of any such contravention may by order direct such person to restore the antiquity to the place from which it was moved.

[30A. Punishment for construction, etc., in prohibited area.

Whoever raises, on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, any construction in the prohibited area, shall be punishable with imprisonment not exceeding two years or with fine which may extend to one lakh rupees or with both.]

[30B. Punishment for construction, etc., in regulated area.

Whoever raises, on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, any construction in the regulated area without the previous permission of the competent authority or in contravention of the permission granted by the competent authority, shall be punishable with imprisonment not exceeding two years or with fine which may extend to one lakh rupees or with both.]

[30C. Offences by officers of Government.

If any officer of the Central Government enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any construction or reconstruction takes place in a prohibited area or regulated area, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.".]

31. Jurisdiction to try offences.

No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.

32. Certain offences to be cognizable.

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under clause (i) or clause (iii) of sub-section (*1*) of section 30, shall be deemed to be a cognizable offence within the meaning of that Code.

33. Special provision regarding fine.

Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any magistrate of the first class specially empowered by the State Government in this behalf and for any presidency magistrate to pass a sentence of fine exceeding two thousand rupees on any person convicted of an offence which under this Act is punishable with fine exceeding two thousand rupees.

34. Recovery of amounts due to the Government.

Any amount due to the Government from any person under this Act may, on a certificate issued by the Director-General or an archaeological officer authorised by him in this behalf be recovered in the same manner as an arrear of land revenue.

35. Ancient monuments, etc., which have ceased to be of national importance.

If the Central Government is of opinion that any ancient and historical monument or archaeological site and remains declared to be of national importance by or under this Act has ceased to be of national importance, it may, by notification in the Official Gazette, declare that the ancient and historical monument or archaeological site and remains, as the case may be, has ceased to be of national importance for the purposes of this Act.

[**35A. Obligation to survey the protected prohibited area and regulated areas.**

(*1*) The Director-General shall, within such time as may be specified by the Central Government, conduct a survey or cause survey to be conducted in respect of all prohibited areas and regulated areas for the purpose of detailed site plans.

(2) A report in respect of such survey referred to in sub-section (*1*) shall be forwarded to the Central Government and to the Authority.]

[**35B. Identification of unauthorised constructions on or after 16th June, 1992.**

(*1*) The Director-General shall, within such time as may be specified by the Central Government, identify or cause to be identified, all constructions (of whatever nature) made on and after the 16th day of June, 1992 in all prohibited areas and regulated areas and, thereafter, submit from time to time a report in respect thereof to the Central Government.

(*2*) The Director-General shall, for the purposes of sub section (*1*), have the power to call for information from the local bodies and other authorities.".]

36. Power to correct mistakes, etc.

Any clerical mistake, patent error or error arising form accidental slip or omission in the description of any ancient monument or archaeological site and remains declared to be of national importance by or under this Act may, at any time, be corrected by the Central Government by notification in the Official Gazette.

37. Protection of action taken under the Act.

No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done or in good faith intended to be done in the exercise of any power conferred by this Act.

38. Power to make rules.

(*1*) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules[10] for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the prohibition or regulation by licensing or otherwise of mining, quarrying, excavating, blasting or any operation of a like nature near a protected monument or the construction of buildings on land adjoining such monument and the removal of unauthorised buildings;

(b) the grant of licences and permissions to make excavations for archaeological purposes in protected areas, the authorities by whom, and the restrictions and conditions subject to which, such licences may be granted, the taking of securities from licensees and the fees that may be charged for such licences;

(c) the right of access of the public to a protected monument and the fee, if any, to be charged therefore;

[(*ca*) the categories of ancient monuments or archaeological sites and remains, declared as of national importance, under sub-section (*1*) of section 4A;]

[(*cb*) the manner of making application for grant of permission under sub-section (*1*) of section 20D;]

[(*cc*) the category of applications in respect of which the permission may be granted and applications which shall be referred to the Authority for its recommendation, under sub-section (*2*) of section 20D;]

[(*cd*) the other matters including heritage controls such as elevations, facades, drainage systems, roads and service infrastructure (including electric poles, water and sewer pipelines) under sub-section (*2*) of section 20E;]

[(*ce*) the manner of preparation of detailed site plans in respect of each prohibited area and regulated area and the time within which such heritage bye-laws shall be prepared and particulars to be included in each such heritage bye-laws under sub-section (*3*) of section 20E;]

[(*cf*) salaries and allowances payable to, and the other terms and conditions of service of, the whole-time Chairperson and whole-time members, or fees or allowances payable to the part-time members, of the Authority under sub-section (*1*) of section 20H;]

[(*cg*) the form in which and time at which the Authority shall prepare an annual report giving full description of its activities for the previous year under section 20P;]

[(*ch*) the form and manner in which the Authority and competent authority shall furnish information to the Central Government under section 20Q;".]

(d) the form and contents of the report of an archaeological officer or a licensee under clause *(a)* and sub-section (*1*) of section 23 ;

(e) the form in which applications for permission under section 19 or section 25 may be made and the particulars which they should contain;

(f) the form and manner of preferring appeals under this Act and the time within which they may be preferred;

(g) the manner of service of any order or notice under this Act;

(*h*) the manner in which excavations and other like operations for archaeological purposes may be carried on;

(*i*) any other matter which is to be or may be prescribed.

(*3*) Any rule made under this section may provide that a breach thereof shall be punishable,-

(i) in the case of a rule made with reference to clause *(a)* of sub-section (*2*), with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both;

(ii) in the case of a rule made with reference to clause *(b)* of sub-section (*2*), with fine which may extend to five thousand rupees;

(iii) in the case of a rule made with reference to clause *(c)* of sub-section (*2*), with fine which may extend to five hundred rupees.

(*4*) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

39. Repeals and savings.

(*1*) The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951, and section 126 of the States Reorganisation Act, 1956, are hereby repealed.

(*2*) The Ancient Monuments Preservation Act, 1904, shall cease to have effect in relation to ancient and historical monuments and archaeological sites and remains declared by or under this Act to be of national importance, except as respects things done or omitted to be done before the commencement of this Act.

Validation of action taken, etc., under notification No.S.O.1764, dated 16th June, 1992.

Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(*a*) any thing done or purported to be done or any action taken or purported to be taken by the Central Government, except as provided in the second proviso to sub-section (*3*) of section 20A, immediately before the commencement of this Act, in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O.1764, dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, shall be deemed to be and deemed to have always been done or taken validly and in accordance with law at all material times [except as provided in the second proviso to sub-section (*3*) of section 20A] and no action taken or thing done (including any order made, agreement entered into, or notification issued for constituting any Expert Advisory Committee) in connection with any permission granted or licence issued for any construction in a prohibited area or a regulated area in respect of a protected monument, shall be deemed to be invalid or ever to have become invalid except as provided in the second proviso to sub-section (*3*) of section 20A merely on the ground that the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or the rules, orders or notifications issued thereunder did not contain any provision for constitution of an Expert Advisory Committee or Advisory Committee, as the case may be;

(*b*) no suit, claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for any permission or licence granted by the Central Government or the Director-General under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or any rule, order or notification made thereunder for carrying out any repair, renovation or construction work or for undertaking any public work or public project before the commencement of this Act;

(*c*) no claim or challenge shall be made in or entertained by any court, tribunal or other authority solely on the ground that the Central Government or the Director-General did not take into consideration any of the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, as amended by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010, in granting any permission or licence for the purpose of carrying out any mining or repair, renovation or construction work in a prohibited area or a regulated area at any time between the 16th day of June, 1992 and the date of commencement of this Act.

Notes for Contributors

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News of general interest	Information on seminar and conferences
Reports on academic events	Invitation for contributing papers, etc.

It attempts to have frequent exchange of information among all those working in related fields for their benefit and in turn for the development of disciplines. All the members are therefore requested to keep sending their contributions for inclusion in bulletin and the annual issue.

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Send your views, information, materials to sanatan08082008@gmail.com for sharing.